

Lewis County Rezone - REMAND

File No.: MSC10-0103

Planning Commission Staff Report – **DRAFT**

PROPOSAL INFORMATION

Contact	Norman Gastfield		
Owner			
Request	<input checked="" type="checkbox"/> Map <input type="checkbox"/> Text <input type="checkbox"/> UGA Change <input type="checkbox"/> Other		
	Existing Zoning Category:		Agricultural Resource Land
	Proposed Zoning Category:		RDD-5
	Existing Comprehensive Plan Designation:		Agricultural Resource Land
	Proposed Comprehensive Plan Designation:		RDD-5
Location/Site Size	Located north of Eadon Road, south of the Cowlitz River, east of Toledo		Approximately 50 acres
Parcel Number(s)	011505002000		
Site Description	Site	Slopes over 30% on the south portion of the lot, currently vacant.	
	Topography	The site is heavily treed, with steep slopes on the southern portion of the lot.	
	Other Features	NA	

SUMMARY EVALUATION

CRITICAL AREAS REVIEW	
Critical Aquifer Recharge Area	A portion of the lot with Severe Susceptibility
Floodplain	N/A
Geologically Hazardous Areas	Slopes over 30% on portions of the site
Wetlands	Present on site
Hydric Soils	Present on site
Stream Buffers	N/A

STATE ENVIRONMENTAL POLICY ACT (SEPA)

An environmental checklist was prepared by Lewis County for the proposal and Determination of Non-Significance (DNS) for a non-project action was issued for the proposal on June 8th, 2011, with a comment and appeal period ending on June 22nd, 2011. The DNS was circulated to agencies of jurisdiction and published in the East County Journal and the Chronicle on June 8th, 2011.

PUBLIC NOTICE REQUIREMENTS

Notice of the public hearing on the proposal was published in the Legal Notice section of the East County Journal and the Chronicle on June 15, 2011.

PUBLIC PARTICIPATION

The applicant and Lewis County Community Development Department have met the following Public Participation Program guidelines for public notice and public hearing(s):

- Circulation of application and SEPA to affected Lewis County agencies and jurisdictions
- County-wide general circulation of legal advertisement placed in the East County Journal and the Chronicle newspaper on June 15, 2011.
- Public meeting & workshop held in Lewis County Public Works Building on April 26, 2011, and May 24th, 2011 at 7:00 p.m.
- County-wide general circulation of display advertisement for amendment and hearing date placed in the East County Journal and the Chronicle newspaper on June 15th, 2011.
- Circulation of amendment to state agencies for review as required by RCW 36.70A
- Publication of amendment and map on Lewis County internet site
- Information regarding proposed Rezones and concurrent Comprehensive Plan Map Amendment(s) available at County Libraries
- Public Hearing in front of the Board of County Commissioners on December 11, 2011

PUBLIC COMMENT

None received as of the date this report was produced.

STAFF REPORT ON AMENDMENT REQUEST

File No: MSC10-0103

Request

The application was originally a request to change the zoning from Agricultural Resource Land (ARL), to RDD-5, with a concurrent Comprehensive Plan Map change from Agricultural Resource Land to RDD-5. In discussions with staff after the REMAND, Mr. Gastfield has said that since he only planned for five building sites, he would accept a staff recommendation of changing the zoning to RDD-10.

Application Summary

The applicant states that the subject parcel is not suitable for farming due to poor soils and steep slopes on the south portion of the lot. The applicant's letter states that some of the slopes are up to 75% grade. The north portion of the lot is identified as wetlands. The applicant states the property has not been farmed. A soils report has been submitted with the application. The applicant states that RDD-5 is compatible with current conditions and uses. The north half of the lot is listed as Prime Farmland if drained, the south half is listed as not prime land. The applicant has stated that the northern half of the lot has never been drained. The site is in the forest tax program with an active forest practice application.

Site Information

The proposal consists of one parcel that is approximately 50 acres in size, located north of Eadon Road, and east of the City of Toledo. The site is heavily treed. Parcels in the immediate area vary in size from just over 1 acre to over 300 acres in size.

Property to the east and south are developed with open acreage home sites, and some trees, and are zoned Agricultural Resource Land. The lot to the north is primarily used as large lot agricultural, and is zoned Agricultural Resource Land. The lot to the west primarily a treed area, and is zoned Agricultural Resource Land.

APPLICABLE ZONING ORDINANCE & COMPREHENSIVE PLAN GOALS AND POLICIES

The Zoning Ordinance & Comprehensive Plan, and other applicable regulations provide the framework for consideration of Zone Changes and concurrent Comprehensive Plan Map amendments. Following are relevant Zoning & Comprehensive Plan text citations related to the consideration of the proposed amendment.

APPLICABLE LEWIS COUNTY ZONING CODE CHAPTERS:

Chapter 17.30 Resource Lands

Agricultural

17.30.080 Agricultural land – Agricultural Resource Land

Agricultural land or agricultural resource land means land primarily devoted to the commercial production of aquaculture, horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products to berries grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production.

17.30.600 Relief from errors in ARL designation.

(1) Property owners who believe a parcel has been included in agricultural resource land in error may request redesignation of that parcel pursuant to the comprehensive plan amendment provisions of LCC 17.165.040.

(3) Property owners who claim a parcel was included in agricultural resource land in error because soils on the parcel are classified by the National Resources Conservation Service as “prime farmland if drained” and the soils are not drained; or “prime farmland if drained and either protected from flooding or not frequently flooded during the growing season” and the soils are not drained and are not protected from flooding or are subject to flooding during the growing season; or “prime farmland if irrigated” and the parcel is not irrigated due to lack of necessary water rights shall provide a written declaration documenting the drainage or irrigation status of the soils on the parcel. The reclassification will be considered a comprehensive plan amendment set by LCC 17.165.020 and the fee shall be waived for property submitting a request under this subsection (3).

Rural Development District (RDD)

17.100.010 Purpose

The Rural Development District is the portion of land in Lewis County not otherwise designated. While the Rural Development District has an overall density designation of one unit per five acres, one unit per ten acres, one unit per twenty acres, the combinations of steep slopes, tight soils, flood plains, and unbuildable critical areas will provide a wide variety of rural residential densities, and will preserve the rural character of the county while providing reasonable opportunity for any low density development. The purpose of this chapter is to achieve a

variety of lot sizes, protect rural character, and protect small rural business which have historically served the citizens of Lewis County.

APPLICABLE LEWIS COUNTY COMPREHENSIVE PLAN CHAPTERS

Chapter 2 Lewis County 20-Year Vision

Natural Resource Areas

Lewis County will have well-managed natural resource areas that continue to provide opportunities for natural resource based industries, like agriculture and timber, into the future. Natural resource areas are also the focus of Lewis-County's recreational and tourist activities. These activities are encouraged, but also well-managed with respect to the overall preservation of our important natural resources.

Environmental and resource protection will be encouraged in order to preserve the quality environment enjoyed in Lewis County for future generations. The open lands, forests, river and stream corridors are essential resources which provide the fish and wildlife habitat, recreational opportunities, scenic beauty, and aesthetic qualities that make Lewis County an attractive place to live.

Natural Resource Lands Sub-Element

"Agricultural/Agricultural Resource Lands are those lands primarily devoted to the commercial production of aquaculture, horticultural, viticulture, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production."

NATURAL RESOURCE LANDS GOALS, OBJECTIVES AND POLICIES

NR Goal: Maintain agricultural, commercial timber production, mineral resource extraction lands and their ancillary uses.

Objective

NR1 Identify and conserve resource lands supporting agriculture, forest, and mineral extractive industries.

Policies

NR 1.2 The County should protect the interests of land-owners who wish to continue the practice of management of natural resources.

NR 1.3 Designate agricultural lands of long-term commercial significance as follows:

2. Identify lands that are classified as having prime farmland soils as determined by the National Resource Conservation Service (NRCS) that occupy a significant partition of the parcel. Prime farmland soils include soils

classified by NRCS as “prime farmland”, Prime farmland if drained,” prime farmland if drained and either protected from flooding or not frequently flooded during the growing season, “ and prime farmland if irrigated.” (NRCS maintains a list of soil mapping units that meet the criteria for prime farmland.

3. Lands with soils that are classified by NRCS as “prime farmland if drained” or “prime farmland if irrigated” are presumed to be drained or irrigated in the absence of evidence to the contrary;

NR 1.6 Some parcels may contain both prime soils and soils that are poor or otherwise not suitable for agricultural purposes. Provisions should be made to allow land owners to redesignate that portion of the parcel containing soils that are poor or otherwise not suitable for agricultural purposes.

NR 1.20 It is the responsibility of any new incompatible land use to appropriately buffer itself from any existing forestry, agricultural or mineral resource lands.

Rural Areas Sub-Element

Rural Development District

“Lands outside of the rural areas of more intense development defined above shall be Rural Development District Zoning designations in the RDD shall include a range in land use densities of one unit per five acres to one-unit-per-20-acres for overall new residential development. In rural lands existing lots of record, regardless of size, shall be legal lots for uses as set forth in development regulations”.

RDD-10 – Intent

RDD-10 allows for a density of one residential unit per 10 acres. The focus of RDD-10 is to assure that the permitted activities are consistent with the traditional practices and intensities and are suited to meet the needs of those who choose to live and work in rural areas. The RDD-10 designation is compatible with overall rural character, recognizes limitations on the availability of rural area services, and avoids the need for urban levels of service that cannot and will not be provided outside UGAs, except to meet recognized health emergency situation as authorized by law.

RURAL AREAS GOALS, OBJECTIVES AND POLICIES

R GOAL

Objective

R 1a Ensure that growth in the County is focused so that the remainder of the County can remain predominantly rural.

Policies

R1.1 Rural development, outside of defined urban growth areas, should be encouraged in a pattern and density that supports the surrounding and prevailing land use pattern, and that does not create urban demands for services for the County taxpayers to support.

FINDINGS

The Planning Commission should review specific objectives and policies related to each zone change and concurrent comprehensive plan map amendment in its decision. Staff has listed the objectives and policies related to this request. Additionally, information contained on the rezone application itself must be weighed against criteria in the Zoning Ordinance and Comprehensive Plan.

MSC-10-0103 is a request for Zone Change from Agricultural Resource Land to RDD-5, and concurrent Comprehensive Plan Map amendment from Agricultural Resource Land to RDD-5. Requests to take land out of the Agricultural Resource Lands classification requires that certain criteria be met per 17.30.600, "Relief from the ARL designation". The applicant states that the site was incorrectly classified as Agricultural Resource Land, is too steep, and is primarily wetlands, with the lower half of the lot not prime farmland. Over 50% of the lot is identified as wetlands. The applicant has included a soils report addressing the soils and wetlands on the site. The soils survey states that 84% of the lot is not considered Prime Farmlands, consisting of Puget & Exerorthents soils. Although the northern portion of the lot is listed as "prime farmland if drained", the applicant has stated that the parcel has never been drained and it would be cost prohibitive to do so.

Currently no irrigation takes place on the parcel, and no agricultural uses take place, or have taken place on the property. Therefore the property does not meet the definition of "Agricultural/Agricultural Resource Lands" as stated in the Natural Resource Lands Sub-Element of the Lewis County Comprehensive Plan. The property is classified designated forest land.

The property directly west of this parcel is in active agricultural use with the exception of the southern portion, along Eadon Road, that has similar characteristics to the applicant property.

Of the twelve properties directly south and west to the RDD-20 zone, one is approximately 28 acres and its land use is shown as "single residential" on county maps. Two more properties

are approximately ten acres, two are approximately five acres and the rest are less than four acres. All but three of the lots have residential development.

Removing this parcel from Agricultural Resource Land would create a parcel with zoning other than Agricultural Resource Land, in the middle of a corridor of Agricultural Resource Land. However, a section of RDD-20 exists to the southwest in fairly close proximity, and RDD-10 exists to the northeast. Re-zoning this parcel may be considered spot zoning due to the parcel location in the middle of an area zoned Agricultural Resource Land, although that is mitigated by the residential development and small lots on the properties south of the subject parcel.

CONCLUSION

Based on the facts of this application, staff believes this property was included in agricultural resource land in error. This property does not meet the conditions of the Comprehensive Plan Policy, NR 1.3 designating agricultural lands of long-term commercial significance. Neither this property nor the properties adjacent are expected to be actively farmed because of soil types, wetlands, slopes, and residential development. Although changing the zoning of this property may appear to be a “spot zone”, the poor conditions for agricultural use and the residential development directly adjacent to the property abates that appearance.

Therefore staff recommends relief from Agricultural Resource Land classification and changing the zoning to RDD-10 with the concurrent Comprehensive Map Amendment changing the Land Use to RDD-10.

ATTACHMENTS:

Maps

- A) Aerial Map
- B) Zoning Map
- C) Farmland Soils Map
- D) Wetland and Slopes Map